

UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION

LARISA GUSEYNOV, et al.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	NO. 3:09-0814
	)	Judge Trauger/Bryant
CITI MORTGAGE, INC.,	)	
	)	
Defendant.	)	

**TO: The Honorable Aleta A. Trauger**

**REPORT AND RECOMMENDATION**

On March 15, 2010, the undersigned Magistrate Judge issued an order to show cause requiring the plaintiffs to show cause on or before April 5, 2010, why their complaint should not be dismissed for failure to obtain service of process on the defendant (Docket Entry No. 7).

In apparent response to this order, plaintiffs have filed their "Motion to Dismiss" (Docket Entry No. 10), which states, "Please dismiss this case because we filed wrong place. Thanks."

The undersigned Magistrate Judge construes plaintiffs' motion to be a notice of voluntary dismissal pursuant to Rule 41(a)(1) of the Federal Rules of Civil Procedure. Since no opposing party has been served nor has filed an answer or a motion for summary judgment, the undersigned Magistrate Judge finds that voluntary dismissal under Rule 41(a)(1) is appropriate.

### **RECOMMENDATION**

For the reasons stated above, the undersigned Magistrate Judge **RECOMMENDS** that plaintiffs' motion to dismiss (Docket Entry No. 10) be **GRANTED** and that the complaint be **DISMISSED** without prejudice.

Under Rule 72(b) of the Federal Rules of Civil Procedure, any party has fourteen (14) days from service of this Report and Recommendation in which to file any written objections to this Recommendation, with the District Court. Any party opposing said objections shall have fourteen (14) days from receipt of any objections filed in this Report in which to file any responses to said objections. Failure to file specific objections within fourteen (14) days of receipt of this Report and Recommendation can constitute a waiver of further appeal of this Recommendation. Thomas v. Arn, 474 U.S. 140 (1985), reh'g denied, 474 U.S. 1111 (1986).

**ENTERED** this 24th day of March 2010.

s/ John S. Bryant  
JOHN S. BRYANT  
United States Magistrate Judge